

Coudert Brothers LLP

ATTORNEYS AT LAW

1627 I STREET, N.W.
WASHINGTON, D.C. 20006-4007
TEL: (202) 775-5100
FAX: (202) 775-1168
WWW.COUDERT.COM
EMAIL: GURLEYJ@COUDERT.COM

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Trade Policy Staff Committee
United States Trade Representative
600 17th Street, N.W.

PUBLIC DOCUMENT

**RE: Request To Exclude Carbon and Alloy Steel Forged Fittings (of Product Group 22)
From Import Relief Under Section 203**

Dear Sir/Madam:

In a Federal Register notice dated October 26, 2001, the Office of the United States Trade Representative, Trade Policy Staff Committee, requested comments on potential action under Section 203(a) of the Trade Act of 1974 with regard to imports of certain steel. See 66 Fed. Reg. 54321 (Oct. 26, 2001). On behalf of the members of the European Forged Fittings Manufacturers Association: I.M.L. Industria Meccanica Ligure; OMC Raccordi s.r.l.; M.E.G.A. S.p.A.; Delcorte S.A.; and ULMA Forja, S. Coop. (the "EFFMA"), we hereby submit this exclusion request. This exclusion request covers carbon and alloy steel forged fittings of Product Group 22 of the U.S. International Trade Commission's investigation. The members of EFFMA are all producers of the subject merchandise.

Respectfully submitted,

John M. Gurley
Matthew J. McConkey

Enclosure (1)

**BEFORE THE
UNITED STATES TRADE REPRESENTATIVE
TRADE POLICY STAFF COMMITTEE**

In the Matter of)
)
)
Steel –)
)
Product Group 22 – Carbon and Alloy Steel)
Flanges, Fittings and Tool Joints)

EXCLUSION REQUEST

ON BEHALF OF:

I.M.L. INDUSTRIA MECCANICA LIGURE; OMC RACCORDI S.R.L.;

M.E.G.A. S.P.A.; DELCORTE S.A.; AND ULMA FORJA, S. COOP.

WITH RESPECT TO CARBON AND ALLOY STEEL FORGED FITTINGS OF

PRODUCT GROUP 22

John M. Gurley, Esq.
Matthew J. McConkey, Esq.
COUDERT BROTHERS LLP
1627 I Street, N.W.
Washington, D.C. 20006
(202) 775-5100

November 13, 2001

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EXCLUSION REQUEST

I. EXECUTIVE SUMMARY

On behalf of the members of the European Forged Fittings Manufacturers Association: I.M.L. Industria Meccanica Ligure; OMC Raccordi s.r.l.; M.E.G.A. S.p.A.; Delcorte S.A.; and ULMA Forja, S. Coop. (collectively referred to as the “EFFMA”), we hereby request that the Trade Policy Staff Committee (“TPSC”) recommend the exclusion of carbon and alloy steel forged fittings (“Forged Fittings”) from any remedy in the Section 201 steel investigation. The members of EFFMA are all foreign producers of the subject merchandise.

As detailed below, EFFMA believes that the TPSC should consider the following basic points when considering this exclusion request for Forged Fittings:

- **Consider Forged Fittings Separately.** Section 201 is not designed to prevent import competition. Therefore, the TPSC should be quizzical of demands for overbroad and overreaching “remedies” that stifle free and fair trade. With that in mind, the TPSC should consider the Forged Fittings imported by EFFMA under HTS 7307.92 separately from other Product Group 22 items for remedy purposes. The main reason for this is that the Forged Fittings imported by EFFMA have distinct characteristics and are subject to autonomous U.S. market demand from other steel items in Product Group 22. Therefore, it would be unfair to consider remedial action under Section 201 without distinguishing Forged Fittings from the other distinct product families in Product Group 22.
- **Exclude Forged Fittings From Any Remedy Because They Have Not Been Shown To Have Caused Any Injury.** There is no data on the record in this investigation to show that imported Forged Fittings have injured any U.S. Forged Fittings manufacturers. There has been little (if any) interest shown by the U.S. manufacturers of Forged Fittings during this entire 201 investigation. Therefore, there is no benefit to imposing remedies on this specific product, only costs.
- **Exclude Approved Market Forged Fittings From Any Remedy.** Should the TPSC decide to deny an exclusion request for Forged Fittings generally, it still should exclude Forged Fittings sold in the approved marked (i.e., those Forged Fittings that are found on Accepted Manufacturer lists (“AML”)). Indeed, there has been no finding that such approved market imports have caused “serious” injury to the domestic industry (let alone injury), and there is no support for such a finding on the record of this investigation. If approved market Forged Fittings (such as those appearing on AMLs) were prevented from being imported into the United States, the remaining domestic producers could not meet U.S. demand. This would damage the national economic interests of the United States, particularly those of U.S. consumers in the oil and gas industry that require approved market Forged Fittings (such as those manufactured by members of EFFMA listed on the ExxonMobil AML).
- **Exclude Forged Fittings Produced to ASTM A105N From Any Remedy.** Should the TPSC decide to deny an exclusion request for Forged Fittings generally, in addition to excluding approved market Forged Fittings from any remedy, the TPSC should also exclude from remedy any Forged Fittings manufactured to ASTM A105N. The Forged Fittings

manufactured by the members of EFFMA are produced to ASTM A105N, a standard distinct from those manufactured on a commodity basis in the United States (ASTM A105). Thus, the domestic industry could not meet demand for the Forged Fittings manufactured to the ASTM A105N standard. Imposing import restrictions on these products would serve no legitimate objective of the safeguards statute, but instead would impose substantial costs and disruptions on domestic users of this product. Therefore, the principles of Section 201 dictate that no remedy should be imposed on imported Forged Fittings produced to ASTM A105N.

II. INFORMATION REQUESTED BY THE TPSC

A. The Designation Of The Product Under Recognized Standard Or Certification (e.g., ASTM, DIN), Or The Commercial Name For The Product And The HTS Number Under Which The Product Enters The United States

The products that are subject to this exclusion request are carbon and alloy steel forged fittings (“Forged Fittings”), classified under subheading 7307.92 of the Harmonized Tariff Schedule (“HTS”).

Should the TPSC decide not to exclude Forged Fittings generally from remedy, then it is requested that approved market Forged Fittings (such as those produced by manufacturers found on AMLs) be excluded from remedy. Such AMLs are publicly available. In fact, the ExxonMobil AML (the industry standard) is provided as Exhibit 1 (see § 2.7, for “forged steel fittings”).

Additionally, should the TPSC decide not to exclude Forged Fittings generally from remedy, then, along with the exclusion for approved market Forged Fittings, it is requested that Forged Fittings manufactured to ASTM A105N be excluded from remedy. The Forged Fittings produced by the members of EFFMA are manufactured to ASTM A105N. However, the domestically manufactured Forged Fittings are produced on a commodity basis only to ASTM A105. The difference between the two is the “N”, which stands for normalized. Provided as Exhibit 2 is a copy of the relevant ASTM. As will be noted, the procedure for normalizing is as follows:

The procedure for normalizing shall consist of allowing the forgings, immediately after forging or rolling, to cool to a temperature below 1000°F (538°C). They shall then be reheated to a temperature between 1550°F (843°C) and 1700°F (927°C) to refine the grain (a group thus reheated being known as a “normalizing charge”) and allowed to cool in air.

ASTM A105, § 5.2.2.

B. A Description Of The Product Based On Physical Characteristics (e.g., Chemical Composition, Metallurgical Properties, Dimensions, Surface Quality) So As To Distinguish The Product From Products For Which Exclusion Is Not Sought

The general distinguishing characteristic of this product is its tariff classification – HTS 7307.92. However, if an exclusion is not granted on this tariff classification generally, an exclusion should be granted for approved market Forged Fittings (such as those that appear on AMLs (Exhibit 1)) and for Forged Fittings manufactured to ASTM A105N (Exhibit 2).

C. The Basis For Requesting An Exclusion

EFFMA agrees with the argument raised in the International Trade Commission (“Commission”) prehearing remedy briefs by the majority of the parties interested in Product Group 22 of this investigation (foreign and domestic producers alike) that remedies (and thus exclusion requests) should be analyzed on a much more specific basis than injury was during the initial stage of this investigation.

1. The Various Product Families Combined in Product Group 22 Should be Considered Separately For Purposes of Assigning Remedies/Issuing Exclusions

a) Section 201 Requires That Remedies Be Narrowly Tailored to Achieve Specific Goals

A prehearing remedy brief was filed at the Commission by the law firm of Hogan & Hartson L.L.P. on behalf of the Association of European Quality Flange Producers (“European Flange Producers’ prehearing brief”). EFFMA agrees with the analysis conducted in that prehearing brief with respect to the goals of Section 201’s remedy provisions. To summarize, under Section 201 the following tenets govern the selection of determining whether a remedy is appropriate, and if so, what that the remedy should be:

- Any remedy may not exceed the amount necessary to prevent or remedy the serious injury;¹
- Any remedy must consider the national economic interests of the United States, and specifically the effects on consumers and on competition in domestic markets; and.²
- Any remedy must provide greater economic and social benefits than costs.³

Thus, if it is shown that there is no existing or threatened serious injury by reason of a particular steel product, then there should be no remedy against that particular steel product. Additionally, even if there is injury, if a remedy will do more harm to the economic interests of the United States as a whole than it would help (e.g., if the negative effects on U.S. consumers and on

¹ 19 U.S.C. § § 2252(e)(3), 2253(e)(2).

² 19 U.S.C. § § 2252(g), 2253(e)(2).

³ 19 U.S.C. § § 2253(a)(2)(F).

competition in the United States are greater than any possible assistance to a particular niche industry), then no remedy should be imposed. In sum, any remedy should be carefully and narrowly tailored to address specific injury and should not unnecessarily cover products.

In making its overall injury determination, the Commission voted on the very broad product groups which had been created (there were 33). Now that the data permits smaller, distinct product families to be considered separately for purposes of the remedy stage of this investigation, pursuant to Section 201, and out of fairness, a separate analysis should be undertaken by the TPSC.

b) There Are Several Product Families Within Product Group 22, And Each of Those Families Should Be Analyzed Separately (Via Tariff Classification) By The TPSC With Respect to Section 201 Remedies

Product Group 22 is comprised of a range of steel products that fall into four distinct product families: (1) carbon and alloy steel flanges;⁴ (2) carbon and alloy steel Forged Fittings; (3) carbon and alloy steel butt-weld fittings, and (4) tool joints. The law firm of Mayer, Brown & Platt filed a prehearing remedy brief on behalf of the following U.S. producers of Product Group 22 items: Boltex Manufacturing Co., L.P.; National Flange and Fitting Co., Inc.; and Weldbend Corporation (“Boltex Manufacturing’s prehearing brief”). In footnote 1 of Boltex Manufacturing’s prehearing brief, they recognize that Product Group 22 applies to 15 separate tariff provisions.⁵ Those tariff provisions are grouped under four separate HTS subheadings: HTS 7307.91 (flanges); HTS 7307.92 (threaded elbows, bends and sleeves); HTS 7307.93 (butt-weld fittings); and HTS 7307.99 (other than flanges, threaded elbows, bends and sleeves, and butt-weld fittings.). Forged Fittings (the product which is the subject of this exclusion request) are classified under subheading HTS 7307.92.

EFFMA supports those portions of the European Flange Producers’ prehearing brief that argue that the various family groups of Product Group 22 should be analyzed separately for remedy purposes. Indeed, page 5 of the European Flange Producers’ prehearing brief contains the following quote from the U.S. flange producers:

[d]efining flanges and butt-weld pipe fittings as separate like products also makes eminent sense, both commercially and statutorily... It would be difficult for the

⁴ In the European Flange Producers prehearing brief, footnote 4, they grouped Forged Fittings with the flange family group because they are produced from the same raw materials on the same or similar equipment as flanges (i.e., they are both fittings produced from steel billets or bars). Thus, they only derived three product families from Product Group 22. To the extent that the European Flange Producers prehearing remedy brief argues that these products should be excluded from remedy because of their use in the approved market, EFFMA is in agreement.

⁵ HTS 7307.91.5010, 7307.91.5030, 7307.91.5050, 7307.91.5070, 7307.92.3010, 7307.92.3030, 7307.92.9000, 7307.93.3000, 7307.93.6000, 7307.93.9030, 7307.93.9060, 7307.99.5015, 7307.99.5045, 7307.99.5060, and 8431.43.78020.

Commission to carry out the statutory purpose of Section 201 if it examined butt-weld fittings and flanges as one product.

In addition, this proposition is supported in the prehearing remedy brief filed by the law firm of Harris Ellsworth & Levin on behalf of the following U.S. producers of carbon steel butt-weld pipe fittings: Trinity Fitting Group, Inc.; Mills Iron Works, Inc.; and Tube Forgings of American, Inc. (Trinity Fitting's prehearing brief"). In that prehearing remedy brief, they state the following on page 3:

As an initial matter, we submit that in order to provide effective relief to domestic producers of BWPF {butt-weld pipe fittings}, the Commission must recommend that measures be imposed that address imports of BWPF, specifically, rather than all imports within the "fittings" product grouping.

In the Boltex Manufacturing prehearing brief (again, these are U.S. producers), they agree with the idea of formulating separate remedies for Product Group 22 families. As they state in footnote 1 of their prehearing remedy brief:

The Commission should recommend that its remedy be implemented on a tariff classification specific basis in order to tailor the relief to specific products. Such implementation is particularly important if the remedy includes a quantitative restriction, lest surges in particular products within the overall quota have a devastating effect on a particular tariff classification.

EFFMA agrees.

In sum, it appears that there is broad based consensus that for purposes of a remedy analysis, a single remedy for all items that fall within Product Group 22 should not be formulated. The corollary to this is that the various family groups of Product Group 22 should be analyzed separately for purposes of recommending product exclusions.

c) Forged Fittings Are A Separate Family Group Under Product Group 22 and Should Be Reviewed Separately For Section 201 Remedy Purposes

EFFMA takes this opportunity to detail why Forged Fittings are indeed a product family separate and independent from the other steel families in Product Group 22. Again, there are four separate subheadings covering Product Group 22, and Forged Fittings fall into just one of those four subheadings – HTS 7307.92.

(i) Fittings Are Different From Flanges

The Commission itself recognizes that the generic products of "fittings" and "flanges" are different: "[f]ittings and flanges are used in piping systems for connecting the bores of two or

more pipes, although the products have very different purposes.”⁶ Thus, flanges cannot be used in lieu of fittings, nor can fittings be used in lieu of flanges. In addition, the HTS contains a specific subheading for flanges - HTS 7307.91, and a specific subheading for Forged Fittings – HTS 7307.92.

(ii) Forged Fittings Are Different from Other Fittings, Such As Butt-Weld Fittings

It is EFFMA’s firm belief that when the terms “fittings” has been used in most of the briefs filed in this investigation, it has meant butt-weld fittings, and not Forged Fittings. For example, on pages 11 and 12 of the prehearing remedy brief filed by the law firm Schagrín Associates on behalf of a large number of domestic steel product producers,⁷ it is recognized that:

[s]ome types of fittings, **such as** butt-weld fittings, nipples, and couplings, are produced from tubular products, and pricing changes in welded tubular products can therefore affect the cost of manufacture of these fittings.

Other products in the flange and fittings category are manufactured from long products also subject to relief in this investigation.

(Emphasis added.) EFFMA agrees. EFFMA also agrees with the Trinity Fitting prehearing brief, in which the represented companies recognize on page 3 that there are fittings other than butt-weld pipe fittings (referred to as “BWPF”) and urge that remedies be issued to specific items:

As an initial matter, we submit that in order to provide effective relief to domestic producers of BWPF, the Commission must recommend that measures be imposed that address imports of BWPF, specifically, rather than all imports within the “fittings” product grouping. Without such product-specific measures, there is a danger that foreign producers will shift their exports from lower value products within the fittings grouping to BWPF, a higher value product, to the detriment of U.S. BWPF producers.

In addition, the HTS contains a specific subheading for butt-weld fittings – HTS 7307.93, and a specific subheading for Forged Fittings – HTS 7307.92. Finally, the Commission itself has, for

⁶ SR at TUBULAR-4.

⁷ The Committee on Pipe and Tube Imports; Allied Tube & Conduit Corporation; Alloy Stainless Products Co., Inc.; American Cast Iron Pipe Company; American Steel Pipe Division; Anvil International, Inc.; Bitrek Corporation; Capitol Manufacturing Company; Century Tube Corporation; Hannibal Industries, Inc.; Ideal Forging Corporation; IPSCO Tubulars Inc.; Leavitt Tube; LTV Copperweld; Lone Star Steel Company; Maass Flange Corporation; Maverick Tube Corporation; Newport Steel Corporation, a division of the NS Group; Northwest Pipe Company; Searing Industries; Sharon Tube Company; Stupp Corporation; Tex-Tube Company; Vest Inc.; and Wheatland Tube Company (“The Committee on Pipe and Tube Imports prehearing brief”).

Title VII purposes, found separate like products even within the fittings category.⁸ Thus, it should be recognized that there substantial differences in how the products are manufactured and how they are used.

d) Conclusion

In sum, when considering exclusions to remedies, Forged Fittings should be considered in a separate category in and of themselves.

2. No Remedy Is Appropriate On Forged Fittings Generally As They Were Not Shown To Be Causing Injury

The record in this investigation contains no discernable separate pricing data for Forged Fittings. As noted in the European Flange Producers prehearing remedy brief on page 6: “all consideration of pricing trends and evidence of underselling was derived from data for butt-weld pipe fittings only.” (Emphasis in original.) Thus, the TPSC “should not recommend relief on products or subproducts where relief is not necessary.”⁹ Though the briefs filed by the domestic parties either ignore Forged Fittings or lump them in the same category with all fittings, such as butt-weld fittings (see e.g., page 14 of The Committee on Pipe and Tube Imports prehearing brief), as detailed in this exclusion request, this is clearly improper.

Therefore, in imposing a remedy, Section 201 demands, in principle if not in letter, that the remedy be formulated as closely as possible to the U.S. industry allegedly being injured.¹⁰ With no evidence on the record that the Forged Fittings caused any injury, EFFMA believes that it would be improper to impose a remedy to address the findings of injury, especially when those findings are with respect to only one particular item in a large family of products. EFFMA notes from the prehearing remedy briefs little, if any, domestic producer interest in applying remedies to Forged Fittings. In fact, it is well known in the industry that the major U.S. producer of Forged Fittings – Bonney Forge¹¹ – is opposed to this 201 investigation. Likewise, Westbrook Manufacturing opposes relief.¹² Therefore, the members of EFFMA should not have “remedies” imposed on their product when the domestic industry is disinterested.

⁸ See e.g., Stainless Steel Butt-Weld Pipe Fittings from Japan, Korean, and Taiwan, Inv. Nos. 731-TA-376, 563 and 564, USITC Pub. 3280 (Feb. 2000)

⁹ Remedy Recommendations in Section 201 Cases, GC-I-101, 1985 ITC GCM LEXIS 92, at *20 (June 4, 1985).

¹⁰ This exclusion request is not an attempt to review the Commission’s findings of injury vis-à-vis Product Group 22. However, because of the language of Section 201 with respect to remedy, the TPSC has the obligation to examine the unique distinctions of the Forged Fittings product and industry when it is considering remedies.

¹¹ See paragraph 11 of the Westbrook affidavit, at Exhibit 3.

¹² See paragraph 12 of the Westbrook affidavit, at Exhibit 3.

3. Forged Fittings Sold In The Approved Market Should Be Excluded From Any Remedy

Should the TPSC decide not to exclude Forged Fittings generally from remedy, it should at least recommend that Forged Fittings that are sold in the approved market be excluded from remedy.

With respect to the Commission's consideration of various remedy proposals, the European Flange Producers prehearing remedy brief urges the Commission to distinguish flanges that are sold in the approved market – i.e., those products that are listed on AMLs maintained by end users in the oil and gas and chemical industries. The European Flange Producers convincingly argue that there is simply no evidence on the record of this investigation that imports of such high-end critical application flanges used in the oil and gas industry have injured the domestic producers. EFFMA agrees with this general point made by the European Flange Producers. In fact, EFFMA submits that this same analysis applies as well to Forged Fittings.¹³

As with approved market imported flanges, various foreign Forged Fittings manufacturers (mostly European), have been vital suppliers to U.S. companies involved in the oil and gas chemical industries.¹⁴ Because such imports have not been a cause of serious injury to the domestic producers, the imposition of import restrictions on these products would not serve any legitimate purpose, and thus would be contrary to the statute.

The ExxonMobil Forged Fittings AML is typically accepted as the Forged Fittings industry standard (Exhibit 1).¹⁵ As noted, there are only a small number of companies (foreign and domestic) on the Forged Fittings AML (see § 2.7 of the AML, which lists the accepted manufacturers for “forged steel fittings”). The reason for this is that it is not easy to get placed on the Forged Fittings AML; the process of approval involves intensive review of product quality and supplier reliability. Given the small number of competitors on the Forged Fittings AML, it is obvious that competition from imports is also very limited with respect to Forged Fittings.¹⁶ On the ExxonMobil Forged Fittings AML, a number of well-established European manufacturers are listed. See Exhibit 1, § 2.7. However, traditional low-cost import sources such as those in China, and other developing nations are not well represented.¹⁷ This AML approval process will continue to exist and will protect U.S. Forged Fittings producers regardless of whether the remedies are imposed pursuant to this investigation.¹⁸

Similarly to forged flanges (as discussed in the European Flange Producers prehearing remedy brief), another key condition of competition distinguishing the approved market AML

¹³ Again, see footnote 4 to the prehearing brief of the European Flange Producers, and footnote 4 of this exclusion request.

¹⁴ See paragraph 9 of the Bluestone affidavit, at Exhibit 4. See also, paragraph 5 of the Westbrook affidavit, at Exhibit 3.

¹⁵ See paragraph 7 of the Bluestone affidavit, at Exhibit 4.

¹⁶ See paragraph 7 of the Westbrook affidavit, at Exhibit 3.

¹⁷ Id.

¹⁸ See generally, affidavits of Westbrook and Bluestone, Exhibits 3 and 4, respectively.

Forged Fittings from other fittings is their close relationship to the oil and gas and petrochemical industries.¹⁹ Approved market Forged Fittings are used in oil and gas applications. Because oil and gas prices have generally been increasing the last year (thus increasing drilling activity), there is every reason to believe that demand for approved market Forged Fittings will remain high.²⁰

Because of the existence of the Forged Fittings AMLs, and because of the stringent requirements imposed on gaining admission onto those AMLs, if imported approved market Forged Fittings were to be excluded from the U.S. market, no one would benefit, only the U.S. customers (e.g., ExxonMobil) would suffer, as their demand (which is likely to remain high) could not be met.²¹

Finally, EFFMA submits that differential applications of remedies to the approved market is administrable. Simply by relying on the list found at Exhibit 1, it should be relatively easy for the TPSC to ensure that any remedy proposed for carbon and alloy steel Forged Fittings does not inappropriately restrict imports of approved market Forged Fittings.

4. Forged Fittings Produced to ASTM A105N Should Be Excluded From Any Remedy

Should the TPSC decide not to exclude Forged Fittings generally from remedy, as with approved market Forged Fittings, the TPSC should at least exclude Forged Fittings produced to ASTM A105N from any remedy.

On page 15 of The Committee on Pipe and Tube Imports' prehearing remedy brief, these domestic parties state that their proposed remedies would "result in increased import pricing and decreased import shipments..." Such a result would be disastrous to U.S. consumers of Forged Fittings produced to ASTM A105N. Therefore, the TPSC should also exclude Forged Fittings manufactured to ASTM A105N from the scope of any remedy. The primary reason for this is that ASTM A105N Forged Fittings are not manufactured on a commodity basis in the United States, and thus the imports are required to meet U.S. demand.²²

Again, in Europe, Forged Fittings are manufactured to standard ASTM A105N. Thus, the Forged Fittings exported to the United States from European manufacturers are all manufactured to ASTM A105N.²³ However, in the United States, Forged Fittings are not

¹⁹ See paragraph 9 of the Bluestone affidavit, at Exhibit 4.

²⁰ Id.

²¹ See paragraph 9 of the Westbrook affidavit, at Exhibit 3; and paragraphs 8, 12, and 13 of the Bluestone affidavit, at Exhibit 4.

²² See paragraphs 8 and 10 of the Westbrook affidavit, at Exhibit 3; and paragraphs 10, 11, 12, and 13 of the Bluestone affidavit, at Exhibit 4.

²³ See paragraph 8 of the Westbrook affidavit, at Exhibit 3; and paragraph 10 of the Bluestone affidavit, at Exhibit 4.

manufactured to ASTM A105N on a commodity basis.²⁴ Instead, they are manufactured to ASTM A105.

Certain domestic producers can manufacture Forged Fittings to ASTM A105N. However, they do not do so on a commodity basis.²⁵ Therefore, when a contract requires the use of ASTM A105N (such as ExxonMobil's "Diana" project), a bidding U.S. manufacturer would have to specially produce the ASTM A105N Forged Fittings. If imports of ASTM A105N Forged Fittings are subject to onerous remedies, this will result in higher prices and longer lead times. Often times, no U.S. company even bids on projects where ASTM A105N is required. Therefore, should remedies be imposed on Forged Fittings made to ASTM A105N, the parties who will suffer the most are the U.S. consumers who need a uniform, timely, and steady source of ASTM A105N product. It is widely acknowledged in the industry that there is insufficient domestic capacity and expertise to produce the needs for ASTM A105N Forged Fittings required by end users.²⁶ Only a limited number of U.S. producers are believed to have the capability or desire to produce ASTM A105N Forged Fittings on a commodity basis. In short, the U.S. manufacturers simply cannot fill this need in the U.S. market place.

In sum, there is insufficient domestic supply of ASTM A105N Forged Fittings to serve the critical applications market. The domestic industry could simply not meet domestic demand for Forged Fittings manufactured to ASTM A105N. Therefore, imposing import restrictions on these products would serve no legitimate objective of the safeguards statute while imposing substantial costs and disruptions on downstream industries (i.e., a supply shortage).

5. Conclusion

For the foregoing reasons, EFFMA urges the TPSC to: (a) consider the issue of remedy for Forged Fittings separately from consideration for other products included in Products Group 22, (b) recommend to the President that no import restrictions be placed on carbon and alloy steel Forged Fittings; (c) recommend that approved market Forged Fittings be excluded entirely from the scope of any relief granted; and (d) recommend that Forged Fittings produced to ASTM A105N be excluded entirely from the scope of any relief granted. The members of EFFMA are innocent bystanders in this Section 201 investigation, and should be treated as such. To impose a remedy on Forged Fittings would cause injury to the national economy without good reason or statutory justification.

D. The Names And Locations Of Any Producers, In The United States And Foreign Countries, Of The Product

To EFFMA's knowledge, the following United States producers actually manufacture the subject Forged Fittings: Bonney Forge, of Mt. Union, Pennsylvania; Westbrook Manufacturing, of Houston, Texas; Capitol Manufacturing, of Westerville, Ohio; Anvil Manufacturing, of

²⁴ See paragraph 8 of the Westbrook affidavit, at Exhibit 3; and paragraph 12 of the Bluestone affidavit, at Exhibit 4.

²⁵ Id.

²⁶ See paragraph 10 of the Westbrook affidavit, at Exhibit 3; and paragraph 13 of the Bluestone affidavit, at Exhibit 4.

Longview, Texas; Phoenix Forge, of Reading, Pennsylvania; and Penn Machine, of Aston, Pennsylvania.

To EFFMA's knowledge, the following foreign producers manufacture the subject Forged Fittings: I.M.L. Industria Meccanica Ligure, of Genova, Italy; OMC Raccordi s.r.l., of Piacenza, Italy; M.E.G.A. S.p.A., of Bergamo, Italy; Delcorte S.A., of Cedex, France; and ULMA Forja, S. Coop., of Gipuzkoa, Spain. In addition, EFFMA believes that on occasion, some Forged Fittings are imported by Bothwell of Taiwan. Product from China also appears in the market sometimes, but the Chinese manufacturers are not known.

E. Total U.S. Consumption Of The Product, If Any, By Quantity And Value For Each Year From 1996 To 2000, And Projected Annual Consumption For Each Year From 2001 To 2005, With An Explanation Of The Basis For The Projection

EFFMA believes that from 1996 to 2000, the U.S. has consumed, on a yearly basis, approximately \$100,000,000 worth of Forged Fittings (foreign plus domestic). This represents approximately 19,60.6 MT of product each year.

EFFMA projects that from 2001 to 2005, the market will grow by approximately 5% each year. The basis for the projected growth is that the subject Forged Fittings are predominantly used in the oil and gas industry in the United States. As U.S. oil and gas demand is strong, and is expected to grow, it is projected that the demand for this product will grow as well.

F. Total U.S. Production Of The Product For Each Year From 1999 To 2000, If Any

EFFMA believes that in both 1999 and 2000, U.S. manufacturers produced approximately 70% of the Forged Fittings sold (i.e., \$70,000,000 or 13,902.42 MT each year).

G. The Identity Of Any U.S.-Produced Substitute For The Product, Total U.S. Production Of The Substitute For Each Year From 1996 To 2000, And The Names Of Any U.S. Producers Of The Substitute

EFFMA is not aware of any U.S.-produced substitute.

Respectfully submitted,

Coudert Brothers LLP

Exhibit 1

ExxonMobil AML

Exhibit 2

ASTM A105

Exhibit 3

Affidavit of Charles R. Westbrook

AFFIDAVIT

I, Charles R. Westbrook, hereby states as follows:

1. I am the Chief Executive Officer of Westbrook Manufacturing of Houston, Texas.
2. I have worked in the steel industry for over 35 years, and have dealt with fittings all 35 of those years.
3. Westbrook Manufacturing is a U.S. manufacturer of forged fittings classified under subheading 7307.92 of the Harmonized Tariff Schedule of the United States (“Forged Fittings”).
4. As a U.S. manufacturer of Forged Fittings, on a commodity basis, Westbrook Manufacturing produces forged fittings to ASTM A105 only.
5. The Forged Fittings produced by Westbrook Manufacturing are on the Forged Fittings accepted manufacturing list (“Forged Fittings AML”) of ExxonMobil and other large U.S. energy companies.
6. Because the forged fittings produced by Westbrook Manufacturing are on the Forged Fittings AML, they are frequently accepted by ExxonMobil and other large U.S. energy companies for projects requiring ASTM A105 Forged Fittings.
7. Because of the standards required for a producer to be listed on the Forged Fittings AML, there is very little foreign competition in the U.S. AML market from low end countries such as China and Taiwan.
8. European producers manufacture Forged Fittings to ASTM A105N, which is a structural standard different from that which the U.S. producers (including Westbrook Manufacturing) manufacture to – ASTM A105. No U.S. forged fittings manufacturer produces, on a commodity basis, Forged Fittings meeting ASTM A105N standards. ASTM A105N is a more stringent standard than is ASTM A105.

9. It is my opinion that if the few foreign producers found on the Forged Fittings AML were excluded from the U.S. market, the U.S. Forged Fittings producers (including Westbrook Manufacturing) simply could not meet U.S. demand for AML product, especially since all of the U.S. Forged Fittings manufacturers are already on the Forged Fittings AML.

10. It is also my opinion that if the European producers found on the Forged Fittings AML were excluded from the U.S. market, the U.S. Forged Fittings producers simply could not meet U.S. demand for ASTM A105N product, especially since no U.S. Forged Fittings manufacturer (including Westbrook Manufacturing) produces Forged Fittings to ASTM A105N on a commodity basis.

11. To my information and knowledge, Bonney Forge of Mt. Union, Pennsylvania, is the leading U.S. Forged Fittings manufacturer.

12. Westbrook Manufacturing opposes any relief in this Section 201 investigation with respect to Forged Fittings, as this industry is not suffering any injury with respect to imported Forged Fittings.

Charles R. Westbrook

Date

State of _____

County of _____

The foregoing was subscribed and sworn to before me this 12th day of November, 2001.

Notary Public
My commission expires

(Seal)

Exhibit 4

Affidavit of Buzzy Bluestone

AFFIDAVIT

I, Buzzy Bluestone, hereby states as follows:

1. I am President of North Shore Supply Company of Houston, Texas (“North Shore”).
2. I have worked in the steel industry for over 20 years.
3. I have worked with forged fittings for over 20 years.
4. North Shore is primarily a distributor of forged fittings, forged flanges, and structural steel. North Shore purchases both imported and U.S.-produced products. The forged fittings imported by North Shore are classified under HTSUS 7307.92.
5. A majority of the forged fittings sold by North Shore are specifically manufactured to meet the specifications for forged fittings accepted manufacturing lists (“Forged Fittings AML”).
6. To appear on a Forged Fittings AML, the forged fitting must be manufactured, at a minimum, to ASTM A105.
7. The forged fittings industry typically accepts the ExxonMobil Forged Fittings AML as the industry standard.
8. There are very few U.S. companies on the ExxonMobil Forged Fittings AML.
9. Forged fittings that meet the specifications of the ExxonMobil Forged Fittings AML are most often used in energy projects. As the U.S. energy market is strong, there is a continued brisk demand for these products.
10. The European manufacturers who appear on the Forged Fittings AML all manufacture their forged fittings exclusively to ASTM A105N.

11. ASTM A105N is a more specialized standard than is ASTM A105. Therefore, ASTM A105N forged fittings are accepted for applications that only require ASTM A105, but ASTM A105 forged fittings cannot be used when the project requires ASTM A105N forged fittings.
12. To my knowledge, no U.S. manufacturers regularly produce forged fittings to ASTM A105N standards.
13. Without access to European produced forged fittings from the Forged Fittings AML, I question whether North Shore could meet the demands of its U.S. customers who require product from the ExxonMobil Forged Fittings AML. This is especially true when our U.S. customers demand ASTM A105N product.
14. Of the few U.S. manufacturers on the ExxonMobil Forged Fittings AML, it is my understanding that at least three such companies, Bonney Forge, Phoenix Forge and Westbrook Manufacturing, oppose any kind of relief in this 201 investigation.

Buzzy Bluestone

Date

State of _____

County of _____

The foregoing was subscribed and sworn to before me this 12th day of November, 2001.

Notary Public
My commission expires

(Seal)